

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CARL T. STEWART, JR.,
 Petitioner,

v.

DAVID A. VARANO, et al.,
 Respondents.

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CIVIL ACTION

NO. 12-681

ORDER

AND NOW, this 24th day of August 2012, after careful and independent review of the Report and Recommendation of Magistrate Judge Timothy R. Rice (Doc. No. 17), Petitioner's Objections (Doc. No. 20), and the submissions of the parties, it is hereby **ORDERED** that:

1. Petitioner's Objections are **OVERRULED**¹ and the Report and Recommendation is **APPROVED AND ADOPTED**;

2. The Petition for a Writ of *Habeas Corpus* is **DISMISSED WITHOUT PREJUDICE**;² and

3. There is no basis for the issuance of a certificate of appealability.

It is so **ORDERED**.

BY THE COURT:
/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.

¹ In his Objections, Petitioner does not raise substantive objections to the findings of the Report and Recommendation ("R&R"); rather, he asserts that prison officials have denied him "access to the courts." Whether Petitioner's civil rights have been violated during his incarceration is not before the Court at this time and is not a basis for overruling the R&R. Petitioner has timely complied with the deadlines in this federal habeas case and has not been prejudiced by any delay that he may have experienced in receiving his legal papers.

² The Petition contains unexhausted claims that are currently pending in state court. The Court therefore dismisses the Petition without prejudice to allow Petitioner to exhaust his state remedies. See Cone v. Bell, 556 U.S. 449, 465 (2009).